

ICO call for views on a data protection and journalism code of practice

The Information Commissioner is calling for views on a data protection and journalism code of practice (the code).

The Data Protection Act 2018 requires the Commissioner to produce a code of practice that provides practical guidance and promotes good practice in regard to processing personal data for the purposes of journalism. Our intention is for the code to provide practical, pragmatic guidance for journalists on how to comply with data protection legislation, building on the [detailed guidance that we have already produced for this sector](#).

This call for views is the first stage of the consultation process. The Commissioner is seeking input from relevant stakeholders, including media organisations, trade associations, data subjects and those representing the interests of data subjects. For further information on the call for views, please read our blog post [here](#).

We will use the responses we receive to inform our work in developing the code.

You can email your response to journalismcode@ico.org.uk.

Or print and post to:

Journalism Code Call for Views
Policy & Engagement Department
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire SK9 5AF

The call for views will be open until **Monday 27th May 2019**.

Privacy statement

For this consultation we will publish all responses except for those where the respondent indicates that they are an individual acting in a private capacity (e.g. a member of the public). All responses from organisations and individuals responding in a professional capacity (e.g. academics, freelance journalists, sole traders, legal professionals) will be published. We will remove email addresses

and telephone numbers from these responses but apart from this we will publish them in full.

For more information about what we do with personal data please see our [privacy notice](#).

Questions

Q1 We are considering using our current guidance "[Data protection and journalism: a guide for the media](#)" as the basis on which we will build the new journalism code. Do you agree or disagree with this approach?

☐ Agree ✓

☐ Disagree

Q2 If you disagree, please explain why?

I'd suggest chopping it up into segments that can be updated individually, so that relevant information and sections can be updated as required, without needing to fully re-issue the whole lot, but able to be gathered together for relevant information to present and be "read and understood" in bytesized chunks.

We all rely on journalists to provide us with information, and given recent events, it appears they are at the edge of where controls for organisations meet individuals, disgruntled persons, and potentially good and bad behaviours which may be in other persons interests to highlight or discredit.

As such this makes them at the knife edge of what will become standard practice in the future, and why we should take account of how the highest standards of information handling can be improved, maintained and trained into people for doing this work.

At the same time, working in a time critical environment, it may be the case that mistakes are made, so having appropriate mechanisms to withdraw content or demonstrate that it is accurate and exactly as when originally made, recorded or written is always going to be important, to verify accuracy of content, context and address concerns of misrepresentation.

Q3 "Data protection and journalism: a guide for the media" is split into three sections:

- "Practical guidance" aimed at anyone working in the journalism sector;
- "Technical guidance" aimed at data protection practitioners within media organisations; and
- "Disputes", aimed at senior editors and staff responsible for data protection compliance.

Do you think we should retain this structure for the code?

☐ Yes

☐ No ✓

Q4 If no, do you have any suggestions about how we should structure the code?

Policy and requirements generally
What this means for me?

Practical sections

Journalist advice

Organisation advice

Sources advice

Appropriate technical and organisational measures (updateable as required, individual guidance documents), as with hse guidance.

Policies, Communication, Sponsorship, Control

Online content repositories , and age appropriate content marking
/ radio edit version

Youtube facebook, online linked to articles on twitter, news pages,
twitter spats, repositories, source data management

Information management systems

Risk Management

Points of particular risk

Notebooks & paper documents

Physical Controls

Electronic Controls

Surveillance, tracking, non-facial recognition requests

Anpr surveillance against known vehicles

Access and credentials

Information release: accidental, deliberate, redaction, deletion

Location physical specific – People, transport, travel, security, safety, country (e.g. middle east/china/usa/uk encryption requirements) request for access by authorities & password guidance if instructed to login to devices.

Where to get further advice & how to have a confidential discussion

Case law of relevance

Section 55 and defences for sources, journalists etc

Q5 Do you think the ICO's existing guidance for journalists addresses the main areas where data protection issues commonly arise?

☐ Agree (mostly) ✓

☐ Disagree

Q6 If no, what additional areas would you like to see covered?

Like to see more about management of secured information where disclosed to third parties, managing control or requirements around disclosure.

If already aware of document, request it formally and get nothing in return.

Fleshing out of disclosure and how it works, perhaps case studies of relevant recent high profile cases to examine why/how cases turned with updated precedents (as are done with ico decisions on the website).

Q7 The journalism code will address changes in data protection law, including developments in relevant case law. Are there any particular changes to data protection law that you think we should focus on in the code?

What would be an appropriate amount of time between investigation and return of potential evidence, if stored physically to prevent return of original content to parties being investigated.

Where documents have previously been removed will there be a requirement to delete data.

Q8 Apart from recent changes to data protection law, are there any other developments that are having an impact on journalism that you think we should address in the code?

Handling of documents provided to journalists as part of journalistic activities, which may have been classified by the source organisation(s), and how they should be appropriately secured in light of gdpr, state secrets legislation, banning orders,

confidentiality or non-disclosure agreements, or how such settlements may have a default provision for confidentiality etc.

Ceaseure and potential requirement to hand over devices to investigating authorities, such as computers or source paperwork

Disclosure of documents that are from another jurisdiction and how laws may apply or have a hierarchy attached

Source documents or information may be stored or sourced from different countries, given how the internet works, and company/government information can be held elsewhere – protection for documentation in transit between countries in physical media against seizure? (e.g. guardian hard disks)

What about data in transit over vpn or stored in the cloud, documentation publishing, redaction and removal from websites, or removal of links to content, (or reinstatement where removal requests are because of organisation attempting to limit embarrassment).

Workflow software for data handling (media and video files) and what it should do and how data albums or photos can be segregated between reasons for storage.

Q9 Are there any case studies or journalism scenarios that you would like to see included in the journalism code?

Julian Assange – how should people's belongings or equipment be addressed?

How to remove photos from facebook or retain copyright if they are no longer sensible, (i.e. upload incorrect image), or images are no longer appropriate at a different phase of life - student life vs professional life or divorce occurs/ re-married

Whilst it's not journalist specific, the cleansing of profiles i.e. for something like maliciously shared pictures and retaining or requesting removal of pictures online, such as provided to partners that subsequently get shared.

Q10 Do you have any other suggestions for the journalism code?

Make code modular as there will be instances where advice has to be updated, i.e. sdcard handling from video cameras and encryption, if available later.

About you

Q11 Are you answering these questions as?

- ☐ A media organisation?
- ☐ A trade association?
- ☐ An organisation representing the interests of data subjects?
- ☐ An academic?
- ☐ An individual acting in a professional capacity? ✓ studying cybersecurity and how organisations can be more secure.
- ☐ An organisation that regulates press standards?
- ☐ An individual acting in a private capacity (e.g. someone providing their views as a member of the public)? ✓
- ☐ Other? ✓

If you answered 'other' please specify:

Cybersecurity student and professional with interest in better information security

Q12 How did you find out about this survey?

- ☐ ICO website
- ☐ Social media ✓

- ☐ Conference/seminar
- ☐ Trade/professional association
- ☐ Media
- ☐ Word of mouth
- ☐ Other?

Q13 We may want to contact you about some of the points you have raised. If you are happy for us to do this please provide your email address:



Thank you for taking the time to share your views and experience.